

DEPARTMENT OF STATE REVENUE**LETTER OF FINDINGS NUMBER: 99-0305 CG****Denial of Annual Bingo License Application**

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE**Charity Gaming – Donation of Gross Charitable Gaming Receipts**

Authority: IC 4-32-6-20; IC 4-32-6-22; IC 4-32-9-3; IC 4-32-9-16.5

The V.F.W. Post No. 2999 Irvington Ladies Auxiliary (hereinafter referred to as Petitioner) protests the Department's determination that it failed to meet the donation requirements of IC 4-32-9-16.5.

STATEMENT OF FACTS

The Petitioner was a qualified organization and held a charity gaming license. The Petitioner sought to renew its annual bingo license. The Department reviewed the Petitioner's CG-DIST (Charitable Contribution Distribution Listing), and determined that the Petitioner failed to distribute 60% of its gross charitable gaming receipts (less pay outs) to other qualified organizations pursuant to IC 4-32-9-16.5. The Department's Denial was dated June 2, 1999. The Petitioner filed its protest on June 3, 1999. The hearing in the above referenced matter was held on September 30, 1999. The transcript of the hearing was received by the Department on October 22, 1999.

Additional facts will be discussed in the body of the opinion.

Charity Gaming – Donation of Gross Charitable Gaming Receipts**DISCUSSION**

The Petitioner protests the Department's determination that it failed to meet the distribution requirements of IC 4-32-9-16.5. The Department determined that the Petitioner must distribute an additional \$39,149.00 to qualified charitable organizations in order to fulfill its statutory obligation. The Petitioner contends that this number is incorrect and provided multiple checks in support of its position. The Petitioner also

argued in hearing that funds donated to hospitals must be counted toward its total and cites IC 4-32-6-20(b).

Indiana Code section 4-32-9-16.5 provides, “A qualified organization that receives ninety percent (90%) or more of the organization’s total gross receipts from any events licensed under this article is required to donate sixty percent (60%) of its gross charitable gaming receipts less prize payout [sic] to another qualified organization that is not an affiliate, a parent, or a subsidiary organization of the qualified organization.”

Pursuant to IC 4-32-6-20:

(a) ‘qualified organization’ means: a bona fide religious, educational, senior citizen, veterans, or civic organization operating in Indiana that:

(A) operates without profit to the organization’s members;

(B) is exempt from:

(i) taxation under Section 501 of the Internal Revenue Code...

The Department’s form CG-DIST states, “Complete this schedule if your organization made charitable contributions of gaming proceeds to other organizations and/or individuals. Attach to the Gross Receipts Report, Form CG-21 or CG-22.”

A review of Petitioner’s CG-21 shows a total of \$44,252.40 to be distributed according to IC 4-32-9-16.5. The Petitioner’s CG-DIST shows a total of \$26,019.08 that was distributed to various individuals, businesses, and organizations. A thorough review of the Petitioner’s donations by the Hearing Officer reveals that only \$7,035.00 was distributed to qualified organizations. An additional \$ 37,217.40 must be given to qualified organizations for the Petitioner to be in compliance with Indiana law.

The Petitioner argued in the hearing that funds donated to hospitals must be counted toward its 60% total and cites IC 4-32-6-20(b) in support of this argument. Indiana Code section 4-32-6-20 (b) provides in pertinent part, “For the purposes of IC 4-32-9-3, a ‘qualified organization’ includes the following: (1) A hospital licensed under IC 16-21...” Indiana Code section 4-32-9-3 states, “A qualified organization is not required to obtain a license from the department if the value of all prizes awarded at the bingo event... does not exceed one thousand dollars... for a single event and not more than three thousand dollars... during a calendar year.” Therefore, a hospital is automatically considered a qualified organization only for purposes of IC 4-32-9-3. In order for donations made to the Indiana V. A. Hospital or Indiana V. A. Medical Center to be counted as an appropriate distribution, a determination must be made as to whether they are a qualified organization as defined in IC 4-32-6-20. In this case, neither organization is considered a qualified organization. This determination was made by using Internal Revenue Service Publication 78 described in section 170(c) of IRC of 1986 (Rev. 1-99) and the internet site www.Guidestar.org in both cases the organizations were not listed. This means the organizations do not have 501(c) status, and therefore cannot be considered qualified organizations under IC 4-32-6-20. A simple cursory review of the

tax information available to all taxpayer's would have disclosed which organizations were or were not tax exempt at least for federal purposes.

The Petitioner's protest is respectfully denied.

FINDING

The Petitioner's protest is denied.

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